

DEPARTMENT OF BANKING AND INSURANCE

CODE OF ETHICS

As Revised September, 2003

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Commissioner**

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TABLE OF CONTENTS

	PAGE NUMBER
I. <u>PURPOSE</u>	1
II. <u>ETHICS LIAISON OFFICER</u>	1
III. <u>DEFINITIONS</u>	1-2
IV. <u>GENERAL RULES OF CONDUCT</u>	3-4
V. <u>GUIDELINES ON SPECIFIC SUBJECTS</u>	4-9
A. Attendance at Events or Functions	4
B. Receipt of Gifts and Favors	6
C. Retirement Gifts	6
D. Use of State Information, Property and Funds; Use of Official Stationery	7
E. Joint Ventures and Private Financing of State Activities	7
F. Secondary Employment	7
G. Sexual Harassment	8
H. Post-Employment Guidelines	8
I. Professional Licenses	8
J. Representation, Appearance or Negotiation	9
VI. <u>PROHIBITED ACTIVITIES: LIMITATIONS ON FINANCIAL TRANSACTIONS</u>	9-10
VII. <u>VIOLATIONS: DISCIPLINARY ACTION PENALTIES</u>	

I. PURPOSE

Authority: N.J.S.A. 52:13D-12, 23

In our representative form of government, it is essential that the conduct of public officials and employees shall hold the respect and confidence of the people. Public officials must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

To ensure propriety and preserve public confidence, persons serving in government should have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform maintenance of those standards amongst them. Some standards of this type may be found in statutory prohibitions or requirements; others are spelled out in the Department of Banking and Insurance Code of Ethics to meet this Department's specific needs.

It is also recognized that under a free government it is both necessary and desirable that all citizens, public officials included, should have certain specific interests in the decisions of government, and that the activities and conduct of public officials should not, therefore, be unduly circumscribed.

This Ethics Code is applicable to all officers and employees of the Department, including temporary and permanent personnel in career service, unclassified positions and senior executive services, as well as all Special State officers and employees. In addition all officers and employees of the Department are subject to all the provisions of the New Jersey Conflict of Interest Law, N.J.S.A. 52:13D-12 et seq. and the rules promulgated by the Executive Commission on Ethical Standards at N.J.A.C. 19:61-1.1 et seq.

II. ETHICS LIAISON OFFICER

The Department of Banking and Insurance Ethics Liaison Officer is the official liaison to the Executive Commission on Ethical Standards, which was created in 1967. Employee questions regarding conflicts of interest or other ethics related matters should be directed to the Ethics Liaison Officer, or an employee may request a review and opinion on an ethical issue from the Executive Commission on Ethical Standards pursuant to N.J.S.A. 52:13D-21 and N.J.A.C. 19:61-2.2(c).

III. DEFINITIONS

Authority: N.J.S.A. 52:13D-1

"Special State officer or employee" means (1) any person holding an office or employment in a State agency, excluding an interstate agency, for which office or employment no compensation is authorized or provided by law, or no compensation other than a sum in reimbursement of expenses, whether payable per them or per annum, is authorized or provided

by law; (2) any person, not a member of the Legislature, holding a part-time elective or appointive office or employment in a State agency, excluding an interstate agency- or (3) any person appointed as a New Jersey member to an interstate agency the duties of which membership are not full-time;

"State Agency" means the New Jersey Department of Banking and Insurance;

"State officer or employee" means any person, other than a special State officer or employee (1) holding an office or employment in a State agency, excluding an interstate agency, other than a member of the Legislature, or (2) appointed as a New Jersey member to an interstate agency;

"State official" means any State officer or employee or special State officer or employee as defined in the Conflicts of Interest Law, N.J.S.A. 52:13D-13(b) and (e)-l.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance;

"Department" means the New Jersey Department of Banking and Insurance,

"Direct benefit" means acceptance by a State official from the sponsor of an event or any other person of travel, meals, accommodations, waiver of conference or event fee or any other costs associated with attending the event for which no payment is made by the State but is not intended to mean nominal refreshments such as nonalcoholic beverages and snacks such as doughnuts, pastries and cookies;

"Event" means a meeting, conference, seminar, speaking engagement, symposium, training course, ground-breaking, ribbon-cutting, meal, open house, cocktail party, fundraiser, holiday party, social function, or similar event that takes place away from the State official's work location, is sponsored or co-sponsored by a non-State government source and the invitation for which is extended to the State official because of his/her official position;

"Indirect benefit" means acceptance by a State official from the event sponsor or any other person of reimbursement for costs of travel, meals, accommodation, event fees, or any other costs associated with attending the event for which no reimbursement is made by the State but is not intended to mean nominal refreshments such as nonalcoholic beverages and snacks such as doughnuts, pastries and cookies;

"Interested party" means (1) any person, or employee, representative or agent thereof, who is or may reasonably be anticipated to be subject to the regulatory, licensing or supervisory authority of the State official's agency; or (2) any supplier, or employee, representative or agent thereof, or (3) any organization that advocates or represents the positions of its members to the State official's agency- or (4) any organization a majority of whose members are as described in (1) through (3) of this section;

"Person" means any natural person, association, organization, firm, partnership or corporation;

"Personal funds" means funds of a State official. It does not include funds that are loaned, advanced, promised or reimbursed to a State official for any purpose by an interested party,

"Supplier" means any private sector person who is providing or is seeking to provide or may be expected to provide goods and/or services, including but not limited to consultants, equipment vendors, and lessors;

"Trade group" means an organization which includes in its membership interested persons as defined herein, and which advocates or represents the positions of its members in addressing issues affecting them.

IV. GENERAL RULES OF CONDUCT

Authority: N.J.S.A. 52:13D-23, 25

A. No State official should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his or her duties in the public interest. Please refer to Sections V and VI for further applicable restrictions.

B. No State official should engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without promptly filing notice of such activity with the Executive Commission on Ethical Standards. Please refer to Sections V and VI for further applicable restrictions.

C. No State official should use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others.

D. No State official should act in his or her official capacity in any matter wherein he or she has a direct or indirect personal financial interest that might reasonably be expected to impair his or her objectivity or independence of judgment.

E. No State official should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his or her objectivity and independence of judgement in the exercise of his or her official duties.

F. No State official should accept any gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing him or her in the discharge of his or her official duties.

G. No State official should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his or her acts that he

or she may be engaged in conduct violative of his or her trust as a State officer or employee or special State officer or employee.

- H. Confidential information (information not available to the general public) she not be:
1. willfully disclosed to unauthorized persons either during State service or after separation from State service;
 2. used by the State official to further his or her private interests; or
 3. used by the State official, directly or indirectly, for pecuniary gain or to make any investments or other financial transactions.

V. GUIDELINES ON SPECIFIC SUBJECTS

A. Attendance at Events or Functions

Authority: N.J.A.C. 19:61-6

1. Food, Beverage and Travel:

In General:

(a) State officers or employees on legitimate state business authorized by the Commissioner of Banking and Insurance (or designee) are responsible for full payment of the costs of their meals, beverages, lodging and travel. However, upon proper approval, and in accordance with State travel regulations, and in accordance with the specific program funding and reimbursement policies, the State will reimburse the reasonable expenses of the State officer or employee. Neither the State officer or employee nor the State may accept the same from any interested person, supplier or trade group which is licensed, regulated, inspected, or otherwise doing business with the Department, contemplating doing such business, or seeking to influence official actions.

(b) The requirement and prohibition in (1) above need not apply if the event is designed to provide training, dissemination of information, or the exchange of ideas and the State officer or employee is making a speech or is participating in a panel at the event or is an accompanying resource person for the speaker and/or participant subject to the reasonable approval of the department head. The direct or indirect benefit provided to the State officer or employee by the sponsor of the event must be identical to the benefits provided to other speakers or panel participants. If an actual conflict or the appearance of conflict could arise under the application of this paragraph, the provisions of paragraph (1) shall govern.

(c) The State officer or employee shall not accept an honorarium or fee for a speech or presentation at an event sponsored by an interested party.

(d) The State officer or employee may pay his or her own expenses with his or her personal funds.

2. Government Activities:

A State officer or employee with approval from the Commissioner of Banking and Insurance (or designee) to attend an event sponsored by a Federal or non-New Jersey State, County or Municipal government agency, instrumentality or organization may be reimbursed by the sponsoring agency for reasonable expenses incurred.

3. **Private Capacity:**

(a) A State officer or employee may attend any event or function paid for with personal funds on the officer's or employee's personal time, provided it does not conflict with any other provision of this Code.

(b) A State officer or employee who wishes to attend an event in his/her private capacity may be directly reimbursed by the organization for reasonable expenses under the following circumstances:

(b1) If the event of an organization is not specifically licensed nor significantly nor substantially regulated by a State officer's or employee's agency, or is an organization with which the officer or employee has not had, does not have, or is not reasonably expected to having dealings in the course of his/her official duties; or

(b2) If the event is sponsored by an organization the majority of whose members are not licensed or regulated by said agency, or with whom the officer or employee has not had, does not have, or is not reasonably expected to have dealings in the course of his/her official duties.

4. **Business-Related Functions:**

Any State officer or employee who receives an invitation to any business-related function (such as a conference, ground-breaking, ribbon-cutting, meal, open house, cocktail party, fund-raiser, holiday party or other social function, an appearance involving an honorarium etc.) from or with a firm or person doing business with the Department of Banking and Insurance shall report the invitation to the Ethics Liaison Officer. A determination will then be made after taking into account appropriate guidelines of the Executive Commission on Ethical Standards in consultation with the appropriate persons as to whether (1) representation of the Department of Banking and Insurance is appropriate;

(2) acceptance of the invitation is in conflict with the Code; and/or (3) the Department of Banking and Insurance should underwrite the costs incurred for participation in the activity as an alternative to accepting the invitation as offered.

A State officer or employee who wishes to review guidelines governing attendance at events or functions in detail may request a copy from the Ethics Liaison Officer.

B. **Receipt of Gifts and Favors**

Authority: N.J.S.A. 52:13D-14,24 (March 1990 Guideline)

Any State official who receives a gift, benefit, favor or other thing of value, either directly or indirectly and whether by himself or herself, or through a spouse or family member, from a person or entity with whom the officer or employee has had contact in his or her official capacity shall report, immediately, receipt of the item to the Ethics Liaison Officer. A form to be used for the purpose of such reporting shall be provided, upon request, by the Ethics Liaison Officer. Upon review of the report submitted by the officer or employee, the Ethics Liaison Officer shall determine whether the item may be accepted or retained, or whether such receipt would create an impression of a conflict of interest, appearance of impropriety or violation of the public trust. Only those items which have minimal value and which do not create the impression that the officer or employee endorses a particular product or service will be deemed suitable for acceptance or retention.

C. Retirement Gifts

Authority: Feb. 15, 1989 Guideline

Gifts may be funded by a maximum contribution of \$5 per person, collected from invitees to the retirement function. If this method of funding is used, no maximum value is set for the cost of the gifts, but contributions of more than \$5 per invitee are not permitted.

Or

The maximum value of retirement gifts cannot exceed \$1,000. If this method is used, there is no maximum set on individual contributions, but the total value of retirement gifts and/or monetary tokens to the retiree, spouse and dependents cannot exceed \$1,000.

If, instead of presenting gifts or monetary tokens to the retiree, spouse, and dependents, a decision is made to make a monetary contribution to a qualified organization (under I.R.S. Code 501 (c) (3)), no limit is placed on the maximum value of the contribution.

D. Use of State Information, Property and Funds, Use of Official Stationery

1. A State officer or employee shall use the information, property and funds under his or her official control in accordance with prescribed procedures and not for personal gain or benefit.

2. A State officer or employee shall not use or disclose information not generally available to members of the public, which information is obtained during the course of the officer or employee's work within the office other than such use or disclosure connected with the officer or employee's official duties.

3. In addition to all other official uses, the following uses of official stationery are generally permitted:

(a) To recommend a current or former employee or colleague for another position, admission to a school or program, etc.

(b) To respond to inquiries from a private entity about the employment status of a current or former employee or colleague.

No other uses are permitted without the approval of the Ethics Liaison Officer and questions regarding this area should be referred to the Ethics Liaison Officer.

E. Joint Ventures and Private Financing of State Activities

All proposals for joint ventures between private entities and State agencies or private financing of State activities must receive prior approval from the Commissioner. The Ethics Liaison Officer will supply a form to be used for providing necessary information for this purpose.

F. Secondary Employment

The Commissioner may allow State officers or employees to hold outside office or employment, whether compensated or uncompensated, provided there is no conflict of interest with the State officer or employee's State job, and the State officer or employee does not use his or her State office or State time for the conduct of outside office or employment. Forms, as needed, may be obtained from the Ethics Liaison Officer.

No Department of Banking and Insurance officer or employee shall accept secondary employment with any institution or entity licensed, regulated or chartered by the Department.

Pursuant to N.J.A.C. 19:61-2.2, the Ethics Liaison Officer shall send copies of all secondary employment forms to the Executive Commission on Ethical Standards for review.

G. Sexual Harassment

Authority: Personnel Directive, September 1, 1993

All forms of sexual harassment are strictly prohibited. A request for information or confidential complaint shall be addressed to the Department's Affirmative Action Officer.

H. Post-Employment Guidelines

Authority: See N.J.S.A. 52:13D-13(g), 17

No State official, subsequent to the termination of his office or employment in any State agency, shall represent, appear for, negotiate on behalf of, or provide information not generally available to members of the public or services to, or agree to represent, appear for, negotiate on behalf of, or provide information not generally available to members of the public or services to, whether by himself or through any partnership, firm or corporation in which he has an interest or through any partner, officer or employee thereof, any person or party other than the State in connection with any cause, proceeding, application or other matter with respect to which such State official shall have made any investigation, rendered any ruling, given any opinion, or been otherwise substantially and directly involved at any time during the course of his office or employment. Any person who willfully violates the provisions of this section is a disorderly person, and shall be subject to a fine not to exceed \$500 or imprisonment not to exceed six months, or both.

Employees who plan to leave State service may request a copy of detailed postemployment guidelines from the Ethics Liaison Officer or Personnel office.

I. Professional Licenses

Authority: See N.J.S.A. 52-13D-23(e)(2)

No State official may engage in any particular business, profession, trade or occupation which is subject to licensing or regulation by a specific agency of State Government without first filing notice of such activity with the Ethics Liaison Officer and with the Executive Commission on Ethical Standards. Any State official must disclose any professional or business license held by that officer or employee on the Conflict of Interest Questionnaire annexed to this Code of Ethics.

Notwithstanding the foregoing, a Department of Banking and Insurance officer or employee holding an insurance producer license issued by the Department of Banking and Insurance must relinquish the license to the Ethics Liaison Officer immediately upon employment with the Department. Upon surrender of said license to the Ethics Liaison Officer, the license shall be declared inactive and the appropriate licensing personnel in the Department shall be notified. Thereafter, such license may not be used until properly reinstated pursuant to N.J.A.C. 11: 17-2.15. A Department of Banking and Insurance officer or employee who holds any other license issued by the Department of Banking and Insurance must consult with the Ethics Liaison Officer concerning its status immediately upon employment with the Department.

Questions arising under this section of the Code of Ethics shall be referred to and resolved in consultation with the Attorney General's Office.

J.Representation, Appearance or Negotiation

Authority: N.J.S.A. 52:13D- 1 5, 16, 20

(a) No State official shall represent, appear for or negotiate the acquisition or sale of any interest in real or tangible or intangible personal property by the State on behalf of a party other than the State;

(b) No State officer or employee, shall represent, appear for or negotiate on behalf of a party other than the State in any cause, proceeding, application or other matter pending before the State except as otherwise permitted by N.J.S.A. 52:13D-16;

(c) No special State officer or employee shall represent, appear for or negotiate on behalf of a party other than the State in any cause, proceeding, application or other matter pending before the particular bureau, board, council, commission, authority, agency, fund or system in which such special State officer or employee holds office or employment, except as otherwise permitted by N.J.S.A. 52:13D- 16; and

(d) No State official shall act as an officer or agent of the State in any transaction in which he or she has a pecuniary interest.

VII. PROHIBITED ACTIVITIES: LIMITATION ON FINANCIAL TRANSACTIONS

Authority: N.J.S.A. 17:1-2

Neither the Commissioner nor any officer or employee of the Department shall have any interest in or any dealings or transactions in any capacity with any financial institution, insurance company or other entity chartered, licensed, or regulated by the Department, save in the strict performance of his or her duties. No Department of Banking and Insurance officer or employee shall hold, invest in or obtain either directly or indirectly, any equity investment (such as common stock), preferred debt instrument (such as preferred stocks or bonds), or acquire stock options, futures, derivatives or similar financial instruments in any financial institution, insurance company or other entity under the jurisdiction of, or subject to regulation or licensure by the Department, whether such investments were previously acquired or obtained subsequent to employment with the department. This prohibition does not apply to investments in mutual funds, deferred compensation plans, blind trusts, or similar investments in which the employee does not make or influence the selection of individual investments.

This prohibition shall not preclude the commissioner, or officers or employees of the department from continuing routine banking services with financial institutions, including but not limited to, mortgages, checking and savings accounts, and personal loans, entered into prior to their employment, or from establishing banking accounts and from obtaining loans and other services normally obtained by members of the general public, or from obtaining insurance or making claims involving their person, property, or affairs, under the same terms and conditions as are available to members of the general public.

Department of Banking and Insurance employees are expressly prohibited from seeking special favors, rates, services, or decisions from any financial institution, insurance company or entity regulated or licensed by the Department.

Questions arising under this section shall be referred to and resolved in consultation with the Attorney General's Office.

Any violation of this section shall be cause for the dismissal of the violator.

VIII. VIOLATIONS: DISCIPLINARY ACTION: PENALTIES

Authority: N.J.S.A. 52:13D-21, 23, 26

Any State official found guilty by the Executive Commission on Ethical Standards of violation of any provisions of the Conflicts of Interest Law or of this Code of Ethics shall, for each violation, be fined not less than \$100 nor more than \$500 and may be suspended from his or her office or employment by order of the Commission for a period not in excess of one year.

If the Commission finds that the conduct of the State official constitutes a willful and continuous disregard of the provision of the Conflicts of Interest Law or this Code, it may order such person removed from his or her office or employment and may further bar such person from holding any public office or employment in this State in any capacity whatsoever for a period not exceeding five years from the date on which he or she was found guilty by the Commission.

These penalties may be in addition to any other punishment provided by law.

In addition to the above, State officers or employees who violate this Code of Ethics are subject to disciplinary action by this Department, including letter of reprimand, suspension, demotion and removal.